

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GS HOLISTIC, LLC,

Plaintiff,

v.

WALEED SMOKE SHOP INC d/b/a
SMOKER'S GIFT SHOP, et al.,

Defendants.

No. 2:22-cv-02086-WBS-CSK

ORDER

(ECF No. 59.)

On July 22, 2025, the magistrate judge filed findings and recommendations (ECF No. 59), which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen (14) days. On August 5, 2025, plaintiff GS Holistic, LLC filed objections to the findings and recommendations (ECF No. 60), including objecting that the First Amended Complaint sufficiently states a claim for trademark counterfeiting and infringement under 15 U.S.C. § 1114 and false designation of origin and unfair competition under 15 U.S.C. § 1125(a). (ECF No. 60 at 1-4.) Plaintiff further objects that dismissal of this action without leave to amend is inappropriate. (*Id.* at 4.) The Court has considered all objections raised.

In accordance with 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review. As part of the magistrate judge's findings and recommendations, she has included a discussion of those cases previously filed by plaintiff GS Holistic in this district based on similar allegations. It appears that although at least a dozen such cases have been filed, each against a different defendant, in none of those cases has the defendant who was properly served made an

1 appearance. In other words, none of the defendants in those cases have cared enough about the
2 lawsuit against them to bother to respond.


3 It appears that in six of those cases, even though the motion for default judgment was
4 unopposed, the assigned district judges adopted the magistrate judges' findings and
5 recommendations to deny plaintiff's motions for default judgment. It further appears, however,
6 that in the remaining six of those cases the magistrate judge recommended default judgment be
7 entered, and the assigned district judge adopted the magistrate judges' findings and
8 recommendations. In one of those cases, GS Holistic, LLC v. Unlimited Smoke and Vape
9 Paradise, et al., No. 2:22-cv-2037 WBS CKD, 2024 WL 3396380 (E.D. Cal. July 12, 2024), I was
10 the district judge and I adopted the findings and recommendations of Magistrate Judge Delaney to
11 grant the motion for default judgment but deny plaintiff's request for injunctive relief and award
12 plaintiff costs of only \$565.20. At that time, I did not have the benefit of Judge Kim's reasoned
13 analysis in this case.

14 The court has carefully reviewed the file, including plaintiff's objections, and finds the
15 findings and recommendations are supported by the record and by proper analysis. In light of
16 Judge Kim's analysis of the merits of plaintiff's claim, the court now reconsiders its decision in
17 the Unlimited Smoke and Vape Paradise case and finds in this case that plaintiff has failed to
18 satisfy the second and third Eitel factors. The court therefore concludes that it is appropriate to
19 adopt the findings and recommendations in full.

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. The findings and recommendations (ECF No. 59) are ADOPTED IN FULL;
- 22 2. Plaintiff's motion for default judgment (ECF No. 52) is DENIED;
- 23 3. The First Amended Complaint (ECF No. 25) is DISMISSED without leave to
24 amend; and
- 25 4. The Clerk of the Court is directed to close this action.

26 Dated: September 24, 2025

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28 WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE